

1 THE HONORABLE RICHARD A. JONES
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ALASKA VILLAGE ELECTRIC
11 COOPERATIVE, INC., an Alaska
corporation,

Plaintiff,

v.

12 ZURICH AMERICAN INSURANCE
13 COMPANY, a New York corporation;
14 NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA,
15 THROUGH CHARTIS GLOBAL MARINE,
a Pennsylvania corporation; NATIONAL
16 CASUALTY COMPANY, a Wisconsin
corporation; GREAT AMERICAN
17 INSURANCE COMPANY OF NEW YORK,
a New York corporation; and STARR
18 INDEMNITY & LIABILITY COMPANY, a
Texas corporation,

Defendants.

IN ADMIRALTY AND AT LAW

Lead Case No. 2:11-cv-01375-RAJ

Member Case No. 2:11-cv-01819-RAJ

DECLARATION OF LINDA WINDHAM
IN SUPPORT OF REPLY ON MOTION
FOR SUMMARY JUDGMENT

NOTED FOR HEARING:
February 17, 2012

I, Linda Windham, declare as follows from my own first-hand knowledge:

1. I am now and was in the summer of 2010 the Executive Director of International
Specialties, Inc ("ISI"), a general agent for Scottsdale Insurance Company and a number of
its subsidiaries. One of those subsidiaries is a marine insurer, National Casualty Co.
("National"). As such, I and ISI are authorized to underwrite certain classes of insurance
risks for National, including builder's risk coverages. Our authority to do so is per written,

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Lead Case No. 2:11-cv-01375 - 1

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1 specific underwriting guidelines from Scottsdale and National. I have been involved in
 2 marine underwriting for over 40 years in the Northwest marine insurance market, and I am
 3 intimately familiar with the scopes of coverages afforded by the builder's risk contract at
 4 issue in this case.

5 2. In the summer of 2010, I was contacted by Seattle broker FIS Marine and queried
 6 about our willingness to participate in a builder's risk arrangement for two new build barges
 7 to be constructed by Sneed Shipyards down in Texas. I was told by Chris Bader of FIS
 8 Marine that the coverages would need to be issued without Addendum Number 2, and it is a
 9 fact that I was reluctant to agree to participate in the risk initially, and declined at first to take
 10 a part of the risk.

11 3. On July 19, 2010, Ms. T. J. Collins of FIS Marine e-mailed me (a copy of her
 12 e-mail is attached to this declaration as Exhibit 1). In it, she told me that Zurich had agreed
 13 to take the lead on a builder's risk contract for the new builds, with 25% of the coverage,
 14 without inclusion of Addendum 2, and that two other marine insurers had also agreed to
 15 participate. She explained that she had spoken to Mr. David Fowler of Zurich about Mr.
 16 Fowler's reasoning for agreeing to write the coverage without Addendum 2. Ms. Collins
 17 wrote me that "Addendum # 2 is only a 'clarifying' addendum to the builder's risk clauses."
 18 This satisfied any concern I had about the breadth of coverage being sought, and I agreed to
 19 participate for National on the risk at Ms. Collins' request.

20 4. I understood us to be providing the standard, accepted scope of builder's risk
 21 coverages. I did not agree and was not asked to provide coverage for the costs of repair for
 22 defective work by the yard or for "warranty work." Neither Mr. Bader, Ms. Collins, nor
 23 Mr. Bauer asked that of us, and I certainly did not agree to do so. Our arrangements with
 24 Scottsdale and National would not have permitted me to do so, and I would not have done so
 25 in any event. I would not have taken the line we did accept had it not been for Ms. Collins'
 26 assurances that the coverages were in line with our underwriting requirements and my

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 Lead Case No. 2:11-cv-01375 - 2

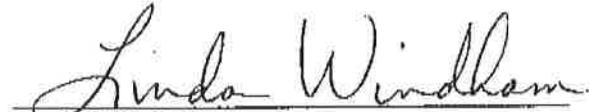
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1 understanding of the scope of coverage. On the strength of her explanation, I agreed to
2 commit National to a participation in the policy ultimately issued to Vitus Marine. I did not
3 intend and did not agree to cover warranty costs.

4 I declare under penalty of perjury under the laws of the State of Washington that the
5 foregoing is true and correct.

6 Dated this 16th day of February 2012.

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8 Linda Windham
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Lead Case No. 2:11-cv-01375 - 3

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CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of February, 2012, I caused to be served the foregoing DECLARATION OF LINDA WINDHAM IN SUPPORT OF REPLY ON MOTION FOR SUMMARY JUDGMENT on the following parties via United States District Court – Western District of Washington’s Electronic Case Filing System (“ECF”) at the following addresses:

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By:

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Attorneys for Defendants

Zurich American Insurance Company,
National Union Fire Insurance Company
of Pittsburgh, PA, through Chartis
Global Marine, National Casualty
Company, Great American Insurance
Company of New York, and Starr
Indemnity & Liability Company

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